

Appl. No. 10/827,480
Response dated 1/16/2009
Reply to Office Action of 09/17/2008

Remarks

Rejections under 35 U.S.C. 102

In the office action dated 09/17/2008, claims 1, 2, 5-7, and 9 were rejected as being anticipated by Hiwatari et al. (JP 2000336018).

Claims 1, 2, 5, 6 and 9 were rejected as being anticipated by Candau (US 6,033,648)

Claims 1, 2, 5-7, 11 and 12 were rejected as being anticipated by Kumar et al. (US 5,468,477).

Applicant respectfully submits the three 102 rejections in the 9/17/2008 to be improper for the following reasons.

The present claims are drawn to a composition comprising a hydrocarbyl functional organopolysiloxane. The hydrocarbyl group is defined as R¹ having the formula $-(CH_2)_3OCH_2CH_2OH$. The Hiwatari, Candau, and Kumar references disclose silicone polyether or silicone oxyalkylene substituted silicones where in all cases the oxyalkylene groups are described as being selected from a combination of EO ($-CH_2CH_2O-$) and PO ($-C_3H_6O-$) units. Applicant respectfully submits Hiwatari, Candau, or Kumar at best discloses a chemical formula that represents a genus of the present hydrocarbyl functional organopolysiloxanes. However, as noted in the MPEP 2131.02 for a generic chemical formula to anticipate a claimed species, the species should be envisioned at once from the formula. Applicant submits the generic formulae used in Hiwatari, Candau, and Kumar are so broad, and encompass such a large number of possibilities, that the present hydrocarbyl functional organopolysiloxane species as claimed are not "at once envisioned".

Furthermore, Applicant believes that Hiwatari, Candau, or Kumar fail to teach or suggest the selection of the present hydrocarbyl functional organopolysiloxanes species as claimed.

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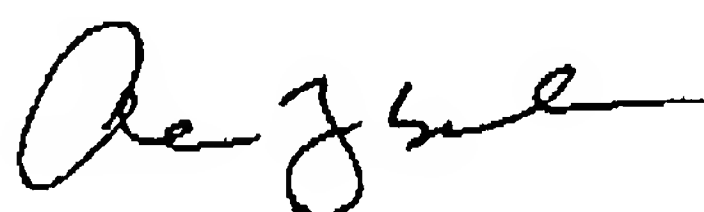
Rather, all three references emphasize structures containing multiple EO groups, as described in preferred structures or working examples. There is no specific teaching, suggestion or motivation in Hiwatari, Candua, or Kumar to select a hydrocarbyl functional organopolysiloxane as presently claimed. Thus, Applicant respectfully submits the present claims to be non-obvious in view of Hiwatari, Candua, or Kumar.

The present response is being submitted within the six-month statutory period for response to the outstanding Office Action. Applicant authorizes the USPTO to charge deposit account 04-1520 for a one month extension of time, and any other fees that should be necessary to maintain the pendency of the application.

In view of the above, it is respectfully submitted that the claims are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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